

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE
March 26, 2012 Session

**LINDA PRINCINSKY v.
PREMIER MANUFACTURING SERVICES, INC. ET AL.**

**Appeal from the Circuit Court for Maury County
No. 12284 Jim T. Hamilton, Judge**

**No. M2011-00904-WC-R3-WC - Mailed May 11, 2012
Filed July 27, 2012**

This is the second appeal in this matter. In the first appeal, the Special Workers' Compensation Appeals Panel affirmed the trial court's judgment finding the employee permanently and totally disabled. The Panel held, however, that the trial court's judgment should be reduced by the 272 weeks of benefits the employer had previously paid the employee. Therefore, the Panel remanded the case to the trial court for entry of a judgment consistent with its opinion. On remand, the trial court applied the 272-week credit as the Panel had directed. The trial court also reapportioned liability and modified the date on which the employee's permanent total disability benefits began to accrue. The trial court's modification effectively increased the employee's award from the 496.86 weeks it had awarded the employee in the original appeal to 697.14 weeks. Employer has appealed, contending that the reapportionment of liability and the modification of the date upon which benefits accrued conflict with the mandate of the previous appeal. We conclude that employer's contentions are correct and reverse the trial court's judgment.

**Tenn. Code Ann. § 50-6-225(e) (2008) Appeal as of Right;
Judgment of the Circuit Court Reversed**

TONY A. CHILDRESS, SP. J., delivered the opinion of the Court, in which JANICE HOLDER, J., and DONALD P. HARRIS, SR. J., joined.

Terry L. Hill and Michael L. Haynie, Nashville, Tennessee, for the appellants, Premier Manufacturing Support Services, Inc. and Travelers Insurance Company.

Larry R. McElhaney, II, Nashville, Tennessee, for the appellee, Linda Princinsky.

Robert E. Cooper, Jr., Attorney General & Reporter; William E. Young, Solicitor General; Joshua Davis Baker, Assistant Attorney General, for the appellee, Tennessee Department of Labor and Workforce Development, Second Injury Fund.

MEMORANDUM OPINION

Factual and Procedural Background

Linda Princinsky worked for Premier Manufacturing Support Services (“Premier”) as a janitor from 1997 until 2005. In November 2002, Ms. Princinsky sustained an injury to her neck and right arm. Her injury resulted in a settlement for 110 weeks of benefits. That settlement was approved by the trial court on November 12, 2004. Ms. Princinsky returned to work for Premier.

Ms. Princinsky sustained a subsequent injury to her neck, left shoulder, and left arm in November 2005, and she did not return to work for Premier after that injury. Ms. Princinsky’s claim resulted in a settlement for 162 weeks of benefits, and was approved by the Department of Labor and Workforce Development on November 21, 2006. Ms. Princinsky filed a petition for reconsideration of the settlement concerning her November 2002 injury. She alleged that she was permanently and totally disabled as a result of the subsequent injury. The trial court found that Ms. Princinsky was eligible for reconsideration under Tennessee Code Annotated section 50-6-241(d)(1)(B)(i)¹ and awarded permanent total disability benefits. The trial court also determined that benefits began to accrue on November 7, 2007, the last date Ms. Princinsky was employed by Premier. The trial court apportioned liability between the Premier and the Second Injury Fund (“the Fund”). See Tenn. Code Ann. § 50-6-208.

The Fund and Premier appealed, and the Panel affirmed the trial court’s finding that Ms. Princinsky was permanently and totally disabled as a result of the November 2002 injury.

¹ Tennessee Code Annotated section 50-6-241(d)(1)(B) provides, in pertinent part:

(B)(i) If an injured employee receives benefits for body as a whole injuries pursuant to subdivision (d)(1)(A) and the employee is subsequently no longer employed by the pre-injury employer at the wage specified in subdivision (d)(1)(A) within four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, the employee may seek reconsideration of the permanent partial disability benefits.

Princinsky v. Premier Mfg. Support Serv., No. M2009-00207-WC-R3-WC, 2010 WL 3715636, at *8 (Tenn. Workers' Comp. Panel Sept. 23, 2010) ("Princinsky I"). The Panel concluded that Premier should receive a credit for the 272 weeks of benefits Premier had already paid Ms. Princinsky against the permanent total disability judgment. Princinsky I, at *6-7. The Panel relied on Turner v. HomeCrest Corp., 226 S.W.3d 273, 279-80 (Tenn. 2007), which held that "once an employee is found permanently and totally disabled, that employee is receiving all of the vocational disability benefits available under the law." The case was remanded to the trial court with these instructions:

The trial court's judgment that Ms. Princinsky is permanently and totally disabled as a result of her 2002 injury is affirmed. The judgment should, however, be reduced by the 272 weeks of benefits previously paid by the employer for the 2002 and 2005 injuries. The case is remanded to the trial court for the entry of a judgment consistent with this opinion.

Princinsky I, at *8. Ms. Princinsky filed a motion for review by the full Supreme Court, but that motion was denied.

After remand, the parties filed briefs concerning the form of the judgment to be entered, and the trial court entered an amended final judgment. In the amended judgment, the trial court applied the 272-week credit as the Panel had directed. Although the judgment appealed in Princinsky I had provided that benefits began to accrue on November 7, 2007, the trial court further amended its judgment by holding that payment of Ms. Princinsky's permanent total disability benefits began to accrue on January 6, 2004, the date Ms. Princinsky reached maximum medical improvement ("MMI") for her 2002 injury. This modification effectively increased Ms. Princinsky's award from the 496.86 weeks she had been awarded in Princinsky I to 697.14 weeks.² Finally, the trial court amended its judgment by reapportioning the award between the Fund and Premier.

Premier has appealed the trial court's amended judgment, contending that the trial court's modifications of its prior judgment deviate from the mandate of the first appeal. In the alternative, Premier contends that the change in the accrual date conflicts with case law concerning permanent total disability awards. This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law. Tenn. Sup. Ct. R. 51. The facts of this case are undisputed; therefore, the appeal raises only questions of law. Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009). A trial court's conclusions of law are reviewed de novo

² The trial court deducted the 272 weeks from the 697.14 weeks award.

upon the record with no presumption of correctness. Ridings v. Ralph M. Parsons Co., 914 S.W.2d 79, 80 (Tenn. 1996).

Analysis Judgment on Remand

The Tennessee Supreme Court has stated that inferior courts must follow the “orders, decrees, and precedents of higher courts.” Weston v. State, 60 S.W.3d 57, 59 (Tenn. 2001) (quoting State v. Irick, 906 S.W.2d 440, 443 (Tenn. 1995)). “Neither a trial court nor an intermediate court has the authority to expand the directive or purpose of this Court imposed upon remand.” Weston, 60 S.W.3d at 59 (citing Cook v. McCullough, 735 S.W.2d 464, 470 (Tenn. Ct. App. 1987)). This limitation of authority ensures finality and stability within the law and judicial proceedings. Irick, 906 S.W.2d at 443 (Tenn. 1995) (quoting Barger, 535 S.W.2d at 341 (Tenn.1976)). Thus, “[w]hen a trial court receives a case that has been remanded, the trial court must strictly comply with the appellate court’s mandate, and typically lacks the power to deviate from the terms of the appellate mandate, absent either permission from the appellate court or extraordinary circumstances.” Rudd v. Rudd, No. W2011-01007-COA-R3-CV, 2011 WL 6777030, at *7 (Tenn. Ct. App. Dec. 22, 2011) (citing Silvey v. Silvey, No. E2003-00586-COA-R3-CV, 2004 WL 508481, at *3 (Tenn. Ct. App. Mar. 16, 2004)).

The mandate in Princinsky I did not remand the matter for new proceedings consistent with the opinion. The mandate did not direct the trial court to revisit the date on which permanent total disability payments began to accrue, nor did the mandate direct the trial court to revisit the apportionment of the award. Instead, the mandate remanded the case “for the entry of a judgment consistent with th[e] opinion.” Princinsky I, at *8 (emphasis added). The only portion of the trial court’s judgment the Panel altered was the number of weeks benefits should be awarded, and the Panel stated that judgment should “be reduced by 272 weeks” Thus, the mandate directed the trial court to enter a judgment reducing its judgment of 496.86 weeks by the 272 weeks Premier had already paid Ms. Princinsky. The trial court exceeded its authority under the mandate by revisiting its previous findings concerning the date on which permanent total disability payments began to accrue and apportionment of the award. Thus, the trial court’s amended judgment is reversed.

Conclusion

The trial court's amended judgment is reversed, and this case is remanded for the entry of a judgment that reduces the original trial court judgment of 496.86 weeks by the 272 weeks Premier had already paid Ms. Princinsky. Costs are taxed to Linda Princinsky and her surety, for which execution may issue if necessary.

TONY A. CHILDRESS, SPECIAL JUDGE

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JUDGMENT

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Linda Princinsky and her surety, for which execution may issue if necessary.

PER CURIAM